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**IN THE
COURT OF APPEALS OF INDIANA**

A.A.,)	
)	
Appellant-Respondent,)	
)	
vs.)	No. 88A01-0608-JV-349
)	
STATE OF INDIANA,)	
)	
Appellee-Petitioner.)	

APPEAL FROM THE WASHINGTON CIRCUIT COURT
The Honorable Robert L. Bennett, Judge
Cause Nos. 88C01-0502-JD-44

May 23, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

A.A. appeals his adjudication as a delinquent child for committing what would have constituted Class B felony child molesting by sexual intercourse if committed by an adult. We affirm.

Issue¹

A.A. presents the issue of whether there is sufficient evidence to support the delinquency finding.

Facts and Procedural History

M.S., born on September 6, 1991, became acquainted with A.A. through her cousin. By January of 2005, M.S. considered her relationship with A.A. as that of girlfriend and boyfriend. A.A. came to live with M.S.'s family thereafter for two to four months. A.A. was in high school at the time, and M.S. was in sixth grade.

While A.A. lived with M.S.'s family, he had intercourse with M.S. M.S. told A.A. that she was thirteen before they had intercourse. A.A. was fifteen.

The State filed a delinquency petition alleging that A.A. committed what would have been child molesting by sexual intercourse had he been an adult. After the factfinding hearing on September 7, 2005, the trial court entered a finding of delinquency. A.A. now appeals.

Discussion and Decision

A.A. contends that there was insufficient evidence to establish that A.A. sexually molested M.S., because M.S. initiated the sexual intercourse. When the State seeks to have a juvenile adjudicated to be a delinquent for committing an act which would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. J.S. v. State, 843 N.E.2d 1013, 1016 (Ind. Ct. App. 2006), trans. denied. In reviewing a juvenile adjudication, this court will consider only the evidence and reasonable inferences supporting the judgment and will neither reweigh evidence nor judge the credibility of the witnesses. Id. If there is substantial evidence of probative value from which a reasonable trier of fact could conclude that the defendant was guilty beyond a reasonable doubt, we will affirm the adjudication. Id.

Indiana Code Section 35-42-4-3(a) provides: A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. Thus, the State was required to show that A.A. knowingly performed or submitted to sex with M.S., who was less than fourteen years old.

A.A. contends that the evidence is insufficient because he did not initiate the sexual contact. This alleged fact is irrelevant. The statute uses the term “submit” implying that the defendant need not be the one who started the sexual contact. A.A. does not deny that he knew M.S. was thirteen and that he had sexual intercourse with her. There is sufficient evidence to support the delinquency adjudication.

¹ We do not address A.A.’s claim that he was subject to selective prosecution in violation of his equal protection rights, because he does not develop a cogent argument. Accordingly, this issue is waived. See Ind.

Affirmed.

SHARPNACK, J., and MAY, J., concur.